

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JESUS CADENA et al.,

Plaintiff,

-against-

THREE STAR ON FIRST INC.,
et al.,

Defendants.

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DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 9/4/18

17-CV-7321 (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

The Court has received and reviewed the parties' proposed settlement agreement (Agreement) (Dkt. No. 59-1) and joint letter dated August, 30, 2018 (Dkt. No. 59), seeking approval of the Agreement. The Agreement requires defendants Three Star on First Inc., Ioannis Kiriakakis, Georgia I. Kiriakakis and Jimmy Kiriakakis to pay \$50,000 to plaintiffs Jesus Cadena, Ana Vilma Diaz and Natacya Schwartz in full settlement of their Fair Labor Standards Act (FLSA) and New York Labor Law (NYLL) claims. Ag. ¶ 1. The Agreement requires defendants to pay this sum to plaintiffs in two equal installments of \$25,000. Ag. ¶ 1. The first payment is due either September 10, 2018, or within seven days of approval of the Agreement, whichever comes later. Ag. ¶ 1.a. The second payment is due by March 10, 2019. Ag ¶ 1.a. Should defendants fail to pay either installment on time, they have executed confessions of judgment in the amount of any payments due, together with 25% penalty, which may be entered if defendants fail to cure a default 14 calendar days following notice. Ag. ¶ 2.

The Agreement includes a mutual general release, in which both sides release each other and their successors, assigns, agents and others from "all known or unknown claim[s]" they have against one another. Ag. ¶¶ 3.a, b.

The Court has reviewed the terms of the Agreement and finds that they are fair and reasonable as required by *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199 (2d Cir. 2015).

Plaintiff's counsel seek reimbursement of \$645.92 in costs and expenses, and an award of \$16,451 in attorney's fees (approximately one-third of the net settlement amount). The proposed award is also reasonable. *See Martinez v. SJG Foods LLC*, 2017 WL 4676828, at *2 (S.D.N.Y. Oct. 16, 2017) (quoting *Meza v. 317 Amsterdam Corp.*, 2015 WL 9161791, at *2 (S.D.N.Y. Dec. 14, 2015)) ("When using a percentage of the fund approach, 'courts regularly approve attorney's fees of one-third of the settlement amount in FLSA cases.'").

Accordingly, the proposed settlement is APPROVED, and the case is hereby DISMISSED WITH PREJUDICE. The Court will retain jurisdiction for the limited purpose of enforcing the Agreement if necessary.

The Clerk of Court is directed to close the case.

Dated: New York, New York
September 4, 2018

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge